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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)	
A-6686 (191910-1560)	

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on 3-1-06

Signature

Typed or printed name Jeffrey R. Kuester

Application Number	Filed
09/693,288	10/20/2000

First Named Inventor: Jerding, et al.

Art Unit	Examiner
2614	Beliveau, Scott

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☐ attorney or agent of record.
Registration number _____.

☒ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 34,367

Signature

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3-1-06
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: Jerding *et al.*	)	
Serial No.: 09/693,288	)	Group Art Unit: 2614
Filed: October 20, 2000	)	Examiner: Beliveau, Scott B
For: Media-On-Demand Rental Duration Management System	)	Docket No.: A-6686 (191910-1560)

REMARKS IN SUPPORT OF
PRE-APPEAL BRIEF CONFERENCE

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicants submit the following remarks in support of a Request for a Pre-Appeal Brief Conference.

REMARKS

1. Rejection of Claims 83-86, 91, 93-99, and 105-107 under 35 U.S.C. §102

Claims 83-86, 91, 93-99, and 105-107 have been rejected under §102(b) as allegedly anticipated by *Goode et al.* (U.S. 6,166,730). Applicants traverse this rejection and respectfully submit that the rejection of record is clearly not proper, and is without basis.

Specifically, Applicants submit that the following clear factual deficiency exists in the rejection. The Office Action alleges that *Goode et al.* teaches or suggests an "implicit usage scenario" as described below, and that this "implicit usage scenario" discloses, teaches, or suggests the features of claims 83-86, 91, 93-99, and 105-107. Applicants challenge the Examiner's statement as clear error. This challenge is not based on interpretation of prior art teachings, but rather on this clear error in the Examiner's statement: the "implicit usage scenario" is clearly not what is plainly claimed in claims 83-86, 91, 93-99, and 105-107.

The "implicit usage scenario" the Examiner refers to can be summarized as: a first user orders a movie and watches on a first set-top; the first user stops the movie; a second user continues watching the same movie on a second set-top; while the second user is still watching, the first user orders another copy of the same movie. (See Office Action, pages 5-6.) The Office Action further describes this scenario in *Goode et al.* as follows:

> If the user subsequently, reorders the presentation using the same terms (ex. "third value"), after having watched/accessed a 1 hour portion of the presentation, the user has effectively extended the access duration for that particular interactive media client fiom 4 hours to a "second value" or 5 hours based on to the sum of the originally utilized portion and the new rental terms or "third value".
> (Office Action, "Response to Arguments", p. 3.)

Applicant respectfully submits that the teaching in *Goode et al.* of a user of client 118A purchasing another copy of the same movie is not equivalent to a "first user input enabling the

user to extend ***the access duration***." When claims 83-86, 91, 93-99, and 105-107 are read as a whole, "the access duration" clearly refers to the identified movie presentation, a portion of which was received by the interactive media services client. In contrast, the "implicit usage scenario" refers to a user ordering a ***second*** movie presentation. Furthermore, claims 83-86, 91, 93-99, and 105-107 consistently refer to a single user and a single client. In contrast, the Examiner's "implicit usage scenario" refers to multiple clients and multiple users.

2. Rejection of Claims 87-90, 92, 100-104, and 108-111 under 35 U.S.C. §103

Dependent claims 92 and 104 have been rejected under §103(a) as allegedly obvious over *Goode et al.* (U.S. 6,166,730). Dependent claims 87, 88, 90, 100, 101, and 103 have been rejected under §103(a) as allegedly obvious over *Goode et al.* (U.S. 6,166,730) in view of *Lett et al.* (U.S. 5,592,551). Dependent claims 89 and 102 have been rejected under §103(a) as allegedly obvious over *Goode et al.* (U.S. 6,166,730) in view of *Lett et al.* (U.S. 5,592,551) and *White et al.* (U.S. 6,628,302). The addition of the *Lett et al.* and *White et al.* references does not make up for the deficiencies of *Goode et al.* noted above. Therefore, claims 87-90, 92, 100-104, and 108-111 are considered patentable over the proposed combination.

Respectfully submitted,

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, L.L.P.

By: _____

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